THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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WRIT PETITION NO : 3912 of 2002

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DATED: 03-02-2006

Action for Social Developmment,

Rep., by Nagala Sanjeeva Rao.

..... PETITIONER

AND

The Joint Secretary to the Govt. of India,

Ministry of Home Affairs/Grih Mantralaya,
Govt. Of India/Bharat Sarkar, Lok Nayak Khan Market,
New Delhi & 2 others.

.....RESPONDENTS

ORDER:

This Writ Petition has been filed by Action for the Social Development represented by its Director assailing the action of the 1st respondent in issuing order dated 24-05-2001, whereby and whereunder the petitioner has been prohibited from operating the account with the State Bank of India, Padmaraonagar Branch, Secunderabad-2nd respondent.

2. Petitioner is a non-Government organization, which is registered under the Andhra Pradesh (Telangana area) Public Societies Registration Act,1350 in the year, 1979. Petitioner organization has opened a savings bank account with the State Bank of India, Padmaraonagar, Secunderabad bearing
No.C-8/1236 in the year, 1983 and has been operating the same. Subsequently, the account number has been renumbered as No.001 00060006 in the year 1985. The petitioner organization was instructed to obtain permission under the Foreign

Contribution Regulation Act, 1976 (for brevity, 'the Act'). Accordingly, the petitioner organization obtained permission from the Central Government to operate the account. 1st respondent issued an order on 24-05-2001 whereby and whereunder the petitioner organization has been prohibited from operating the account. The order passed on 24-05-2001 reads as follows:

> *"Whereas the Central Government vide its order dated 24-12-1999 required the Action for Social Development*
> *1-3-183/40/46/6, Gandhinagar, Hyderabad, Andhra Pradesh-500080 (Registered under Foreign Contribution (Regulation) Act, 1976 vide No.010220018 to obtain its prior permission for receiving foreign contribution.*
>
> *And whereas the Central Government is satisfied that the utilization by the said Action for Social Development of the foreign contribution lying in its designated bank account or otherwise is likely to affect prejudicially the public interest.*
>
> *Now, therefore, in exercise of the powers vested under Section 12 of the Foreign Contribution (Regulation) Act, 1976, the Central Government hereby prohibits, with immediate effect, the said Action for Social Development, 1-3-183/40/46/6, Gandhinagar, Hyderabad, Andhra Pradesh-500080 (including all its branches and units) and all their office bearers from paying, delivering, transferring or otherwise dealing with, in any manner, whatsoever, the amount of foreign contribution in their custody either in banks or otherwise, till further orders".*

Since no action has been initiated after passing the prohibitory order under Section 12 of the Act, the petitioner has approached this Court invoking the jurisdiction under Article 226 of the Constitution of India seeking direction to the 1st respondent to declare the prohibitory order dated 24-05-2001 as arbitrary and illegal.

3. Respondents did not choose to file counter affidavit.

4. When the writ petition came up for hearing there is no representation on behalf of the respondents. Hence, heard learned counsel for the petitioner and perused the record.

5. Learned counsel for the petitioner submits that the Criminal Cases registered against the petitioner organization ended in acquittal and therefore, no proceedings

are pending as on this day. He further submits that the 1st respondent having issued prohibitory order under Section 12 has not initiated any further action and therefore, necessary direction is to be given to the

1st respondent to lift the prohibitory order. He referred Section 12 of the Foreign Contribution Regulation Act, 1976 which reads thus:

> *"**Power to prohibit payment of currency received in contravention of the Act:** Where the Central Government is satisfied, after making such inquiry as it may deem fit, that any person has in his custody or control any article or currency, whether Indian or foreign, which has been accepted by such person in contravention of any of the provisions of this Act, it may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing with, in any manner whatsoever, such article or currency save in accordance with the written orders of the Central Government and a copy of such order shall be served upon the person so prohibited in the prescribed manner, and thereupon the provisions of sub-Sections (2) (3) (4) and (5) of Section 7 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) shall so far as may be, apply to, or in relation to, such article or currency and references in the said sub-Sections to moneys, securities or credits shall be construed as references to such article or currency".*

There seem to be no case pending against the petitioner organization as on this day since the case registered against the petitioner organization ended in acquittal. In that view of the matter, I deem it appropriate to direct the petitioner organization to submit a representation to the 1st respondent to revoke the prohibitory order passed under Section 12 of the Act and thereupon the 1st respondent has to consider the said representation in accordance with the provisions of law and pass appropriate orders within four weeks from the date of receipt of a copy of this order.

7. Accordingly, the Writ Petition is disposed of. No order as to costs.

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(B.SESHASAYANA REDDY,J)

3rd February, 2006.

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